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ORIGINAL

DOCKET CONTROL CENTER

CASE/COMPANY NAME:

DOCKET NO. RT 00000J-99-0034

IN THE MATTER OF RULES TO ADDRESS

SLAMMING AND OTHER DECEPTIVE

PRACTICES

AZ CORP COMMISSION
DOCUMENT CONTROL

2001 JUN 12 P 4: 36

RECEIVED

NATURE OF ACTION OR DESCRIPTION OF DOCUMENT

Please mark the item that describes the nature of the case/filing:

01 UTILITIES - NEW APPLICATIONS

NEW CC&N

RATES

INTERIM RATES

CANCELLATION OF CC&N

DELETION OF CC&N (TERRITORY)

EXTENSION OF CC&N (TERRITORY)

TARIFF - NEW (NEXT OPEN MEETING)

REQUEST FOR ARBITRATION

(Telecommunication Act)

FULLY OR PARTIALLY ARBITRATED

INTERCONNECTION AGREEMENT

(Telecom. Act.)

VOLUNTARY INTERCONNECTION

AGREEMENT (Telecom. Act)

MAIN EXTENSION

CONTRACT/AGREEMENTS

COMPLAINT (Formal)

RULE VARIANCE/WAIVER REQUEST

SITING COMMITTEE CASE

SMALL WATER COMPANY -SURCHARGE (Senate Bill 1252)

SALE OF ASSETS & TRANSFER OF OWNERSHIP

SALE OF ASSETS & CANCELLATION OF CC&N

FUEL ADJUSTER/PGA

MERGER

FINANCING

MISCELLANEOUS

Specify

Arizona Corporation Commission

DOCKETED

JUN 12 2001

02 UTILITIES - REVISIONS/AMENDMENTS TO
PENDING OR APPROVED MATTERS

APPLICATION

COMPANY

DOCKET NO.

TARIFF

PROMOTIONAL

DECISION NO.

DOCKET NO.

COMPLIANCE

DECISION NO.

DOCKET NO.

DOCKETED BY

X SECURITIES or MISCELLANEOUS FILINGS

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Specify

June 12, 2001

Date

Joan S. Burke

Print Name of Applicant/Company/Contact person/Respondent/Atty.
602-640-9356

Phone

ORIGINAL

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman

JIM IRVIN
Commissioner

MARC SPITZER
Commissioner

AZ CORP COMMISSION
DOCUMENT CONTROL

2001 JUN 12 P 4: 36

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IN THE MATTER OF RULES TO
ADDRESS SLAMMING AND OTHER
DECEPTIVE PRACTICES

DOCKET NO. RT 00000J-99-0034

Arizona Corporation Commission

DOCKETED

JUN 12 2001

COMMENTS OF AT&T ON THE DRAFT
SLAMMING AND CRAMMING RULES

DOCKETED BY	<i>Mac</i>
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I. INTRODUCTION

On May 22, 2001, the Arizona Corporation Commission ("Commission") invited telecommunications service providers and other interested parties to submit written comments on its draft rules for slamming and cramming. Pursuant to that invitation, AT&T Communications of the Mountain States, Inc. ("AT&T") provides the following comments, on behalf of itself and all AT&T companies that provide telecommunications services in Arizona.

AT&T commends the Commission for addressing the subjects of slamming and cramming. As the Commission noted in its May 29, 2001 news release, slamming and cramming not only defraud consumers, but also defraud telephone service providers when a customer is, in effect, stolen.

As the Commission moves forward with this rule-making, AT&T urges strict adherence to the definitions and processes adopted by the Federal Communication

Commission's ("FCC"). Adhering closely to the FCC Slamming Rules ("Rules"), 47 C.F.R. § 64.1100, will reduce customer confusion and increase efficiencies for both customers and carriers. The issue of customer confusion is particularly applicable to larger business customers with locations in more than one state. Variances from state-to-state require those customers to face a patchwork of inconsistent rules regarding their rights, duties and obligations. Carriers, operating in multi-state environments, are similarly impacted. State-specific requirements drive up the carriers' costs and, ultimately, impact the prices that Arizona consumers and businesses pay for service. Furthermore, in some cases the proposed rules conflict with the federal Rules. Such is the case with the Unauthorized Charges section of the proposed slamming rules and the proposed method for implementing a carrier freeze. The following comments suggest changes that, among other things, would make the Arizona proposed rules consistent with the FCC Rules.

II. ARTICLE 19. CONSUMER PROTECTIONS FOR UNAUTHORIZED CARRIER CHANGES

R. 14-2-1901 Definitions

A. "Customer" means the person or entity in whose name service is rendered, as evidenced by the signature on the application or contract for service, or by the receipt and/or payment of bills regularly issued in his name regardless of the identity of the actual user of service as defined by R14-2-501(9).

Comment: AT&T recommends that the ACC amend or modify this definition of "customer" to be consistent with the FCC's definition of "subscriber." The FCC's definition of subscriber, includes not only the person on the account, but also people authorized by the person on the account.

The FCC's definition of subscriber is found in Part 64 of the Commissions Rules and Regulations, Chapter 1 of Title 47 of the Code of Federal Regulations, § 64.1100

(h) The term *subscriber* is any one of the following:

- (1) the party identified in the account records of a common carrier as responsible for payment of the telephone bill;
- (2) any adult person authorized by such party to change telecommunications services or to charge services to the account; or
- (3) any person contractually or otherwise lawfully authorized to represent such party.

B. "Customer Account Freeze" means a written authorization from a customer to impose a stay on any change in telecommunications services.

Comment: This definition should be expanded to include all types of authorization permitted by the FCC (written, electronic, and oral with TPV) in implementing a carrier account freeze.

R14-2-1902 Purpose and Scope

Comment: This proposed rule should be modified to include intraLATA toll in addition to local and long-distance service.

R. 14-2-1905 Verification of orders for telecommunications services

B. Written authorization obtained by a telecommunications company shall:

Comment: As permitted by the FCC Rules, the Commission should specify that electronically signed letters of agency (Internet LOAs) are valid written authorization.

3. Be signed and dated by the customer to the telephone line requesting the preferred telecommunications company change.

Comment: AT&T recommends adding the language "or subscriber's representative" to the proposed rule.

4. Not be combined with any inducement of any kind;

Comment: AT&T requests that the Commission modify this proposed rule to add an exception for the use of checks in a manner that is consistent with the check exception permitted by the FCC's Rules. The FCC provides this exception for checks used as Letters of Agency ("LOA") in Part 64 of the Commissions Rules and Regulations, Chapter 1 of Title 47 of the Code of Federal Regulations, § 64.1160(d).

"Notwithstanding paragraphs (b) and (c) of this section, the letter of agency may be combined with checks that contain only the required letter of agency language as prescribed in paragraph (e) of this section and the necessary information to make the check a negotiable instrument. The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold-face type on the front of the check, a notice that the subscriber is

authorizing a preferred carrier change by signing the check. The letter of agency language shall be placed near the signature line on the back of the check.”

C. A telecommunications company that obtains a customer’s electronic voice recorded authorization shall comply with the following:

- 1. The authorization call shall be placed from the telephone number(s) on which the preferred telecommunications company is to be changed; and**

Comment: It appears that the Commission has inadvertently combined the requirements associated with two separate verification methods in this proposed rule. In the FCC’s rule that allows electronic recording of an authorization, such authorization is required to be placed from the telephone number that is being changed. That is because the Automatic Number Identification (“ANI”) is captured during the verification process. This verification is not, however, voice recorded. This electronic verification is separate and distinct from the oral verification method that is done through the independent third party verification (“TPV”). The TPV call is audio recorded, but it should not be required to be done from the telephone number that is being changed. Furthermore, the rule, as drafted, would render subscription and/or carrier changes unduly burdensome, if not impossible for customer’s who have more than a single telephone line and/or business location, as it would, in the absence of the requested clarification, require multi-line customer’s to place an identical telephone call from each line to be changed.

The verification method section would be more clear if the specific requirements associated with each type of verification (i.e., written, electronic and oral) were listed as a subset of that verification.

AT&T strongly urges the Commission to adopt the same verification procedures as found in the FCC Rules. In fact, the FCC’s verification procedures are the floor for what must be offered. The FCC permits states to have additional state-specific verification methods, but the state can not have fewer than the three types of verification permitted at the federal level.

F. A telecommunications company that obtains a customer’s authorization verified by an independent third party shall comply with the following:

- 4. The independent third party shall record the customer’s authorization to change telecommunications company and consent to recording unless the customer objects;**

Comment: The TPV process does not allow for a customer to opt-out of having the authorization recorded. The TPV representatives do not control the audio recording equipment at their desks. The customer is told that the TPV is being recorded. If the customer objects to the recording of the TPV, the sale cannot be completed.

The FCC requires audio-recording of the TPV process. No opt-out rules apply. In fact, if a slamming complaint were filed against a carrier at the FCC, the carrier would

automatically be found in violation of the Rules if it could not produce an audio-recording of the TPV.

5. The independent third party shall state at the beginning of the call to the subscriber:

Comment: The Commission should establish the same requirements as contained in the FCC's Rules to avoid the cost of state-specific scripting.

The FCC requires that:

All third party verification methods shall elicit, at a minimum, the identity of the subscriber; confirmation that the person on the call is authorized to make the carrier change; confirmation that the person on the call wants to make the carrier change; the names of the carriers affected by the change; the telephone numbers to be switched; and the types of service involved. (§ 64.1120(c)(2)(iii))

(a) That the caller is a third party administrator hired by the telecommunications company.

Comment: This proposed rule incorrectly implies that the TPV agent is "calling" the subscriber.

(c.) That unless the customer requests otherwise, the authorization shall be recorded.

Comment: The TPV process does not allow for a customer to opt-out of having the authorization recorded. The TPV representatives do not control the audio recording equipment at their desks. The customer is told that the TPV is being recorded. If the customer objects to the recording of the TPV, the verification, and subsequently the sale, cannot be completed.

The FCC requires audio-recording of the TPV process. No opt-out Rules apply. In fact, if a slamming complaint were filed against a carrier at the FCC, the carrier would automatically be found in violation of the Rules if it could not produce an audio-recording of the TPV.

G. A telecommunications company, or its agent initiating a three-way conference call must drop off the call once the call connection has been established.

Comment: AT&T recommends that the Commission eliminate this requirement. The rule imposes significant burdens on carriers that lack the technical capability to implement a three-way call with the end user and verifies and then to drop off the line without causing disconnection of the call between the end user and the third party verifier. For such carriers, the only alternative to upgrading their systems, and thereby incurring additional costs, would be to place customers "on hold" during the duration of the third

party verification process. Such an alternative is not practical because it would require the carrier's telemarketing representative to tie up lines for an indeterminate period after the verification commences. Moreover, because the third party verifier cannot signal that the telemarketing verification process has concluded, the carrier could potentially violate the Commission's prohibition by coming back onto the line.

The interests of consumers would not be served by the Commission's requirement either. AT&T's experience has shown that in a significant number of verification calls end users request marketing-related information, such as a review of the features of the carrier's calling plan that the end user agreed to purchase during the telemarketing phase of the call. It would plainly be inappropriate for the independent third party verifier to assume the role of salesperson for the carrier in these circumstances.

Under the proposed rule, customers who request clarification about the terms of their proposed service or other aspects of their order during the course of the third party verification call will either have to forego obtaining that information (because the provision of such data is beyond the proper scope of the verifier's duties) or terminate the verification call and place a new call to the carrier's telemarketing center to obtain the data. In such cases, the customer will be required to incur the time, trouble and inconvenience of repeating the entire sales order input process before being connected again to a third party verifier. In many such cases, it may be impossible for the customer to contact the telemarketing center with which the original sales call was conducted; for example, where the initial sales call was initiated via "outbound" telemarketing and the customer either does not have the telephone number of the carrier's telemarketing facility or that facility does not serve "inbound" calling. Moreover, carriers will be required to repeat the telemarketing transaction with consequent loss of efficiency and additional, unnecessary costs.

Additionally, the mandatory drop-off rule will adversely affect customers and carriers because, in the current competitive telecommunications marketplace, carriers increasingly attempt to differentiate themselves through attractive "service bundles" that include both regulated offerings, such as presubscribed services, and unregulated services (for example, Internet access). Although presubscribed service forms only one part of the service "bundle," an order for that service is an essential element of the total package and must be verified to implement the customer's order.

The drop-off requirement presents carriers offering such service bundles with an unpalatable choice. They cannot verify a customer's selection of that entity as preferred carrier at the outset of the order process without being required to disconnect the carrier's telemarketing agent from the call, thereby obstructing (and, in all likelihood, effectively precluding) the customer's conveniently ordering the remaining components of the bundle. Carriers thus may have no alternative but to complete the entire sales order-taking process for the bundled services, and then risk having that order invalidated with consequent unnecessary effort and expense) if the customer for any reason fails to satisfactorily complete the verification process. In these instances, customers will also be subjected to the substantial inconvenience of expending unnecessary time in placing an order for the bundled offering that ultimately cannot be implemented by the carrier.

Especially in light of these unwanted effects on customers and carriers, there is no justification or purpose for the drop-off requirement. The Commission should eliminate this proposed rule.

I. In the event a customer objects to providing a voice recorded authorization, the telecommunications company shall provide the customer with the ability to issue written authorization.

Comment: As explained above in R14-2-1905(F)(4), the TPV agent does not have the capability to control if a verification is recorded. As required by FCC Rules, for the protection of the customer as well as for the protection of the carrier, all TPVs are recorded. Since TPVs are used with oral verifications, the sales are primarily those made by inbound and out-bound telemarketing agents. If the customer objects to the audio-recording, the verification cannot be processed & the sale is voided.

Furthermore, the current proposed rules require the sales agent to drop off the call as the TPV is done, making additional conversation between the sales agent and the customer impossible. For the reasons explained above, however, AT&T requests that the Commission delete that proposed rule.

K. A telecommunications company obtaining the authorization, by any method, of a customer to switch carriers shall confirm that the individual requesting the change is the person whose name is on the account.

Comment: AT&T recommends that the Commission adopt the FCC's definition of "subscriber" which is broader than the proposed Arizona rules. See comment on R. 14-2-1901(A). Limiting the individual requesting the change is simply impractical, primarily in the business market. Adopting the FCC's definition permits the necessary flexibility to ensure that the person requesting the change has the authority to do so.

R. 14-2-1906 Notice of Change

A. When a preferred telecommunications carrier has changed a customer's service, the new company, or its billing and collection agent, on its behalf, shall insert a conspicuous notice in the customer's next bill highlighting the change in service and including the name of the new telecommunications carrier, their address and telephone number.

Comment: No definition of "preferred telecommunications carrier" has been provided. AT&T suggests that the Commission adopt the FCC's definition for "authorized carrier," as found in § 64.1100(c).

"The term authorized carrier is generally any telecommunications carrier that submits a change, on behalf of a subscriber, in the subscriber's selection of a provider of telecommunications service with the subscriber's authorization verified in accordance with the procedures specified in this part."

B. When a preferred telecommunications carrier has changed a customer's service, the new company, or its billing and collection agent, on its behalf, shall notify the customer in writing within 10 days of their change in telecommunications carriers.

Comment: AT&T believes this requirement is unnecessary. Carriers will already be required to verify changes to a customer's service and retain the verification. Furthermore, a customer's bill will state that a change has been made to his or her service. Additional notification is costly and burdensome. If the Commission adopts such a requirement, AT&T requests that the time for notification be extended to 30 days.

R. 14-2-1907 Unauthorized charges

Comment: AT&T strongly urges the Commission to adopt the FCC's procedures for "Resolution of Unauthorized Changes in Preferred Carrier" found in §64.1150, the "Absolution Procedures Where the Subscriber Has Not Paid Charges" found in §64.116, and the "Reimbursement Procedures Where the Subscriber Has Paid Charges" found in §64.1170.

At best, the variances in these proposed Arizona rules require that carriers implement unique processes from those set forth by the FCC. At worst, the Arizona rules present conflicting direction for the carriers to follow in addressing how to handle unauthorized charges.

A. If a customer's service arrangement is changed without verification consistent with these rules, it is the responsibilities of the telecommunication company initiating a change to:

- 1. Take all actions within its control to facilitate the customer's prompt return to the original telecommunications company within three days of the customer's request;**

Comment: In this situation, the telecommunications company that initiated a change can only assist the customer. The actual processing timeliness is within the control of the customer's local exchange company. Additionally, if the customer's telephone number has been ported, the return to the original telecommunications company will likely take longer than three days.

B. A billing telecommunications company shall not:

- 1. Suspend, disconnect, or terminate telecommunications service to any customer who disputes any billing charge pursuant to this section or for nonpayment of an unauthorized charge; or**

Comment: AT&T suggests the following clarifying language, "Suspend, disconnect, or terminate telecommunications service to any customer who disputes any billing charge pursuant to this section or for nonpayment of an unauthorized charge, unless the dispute regarding the unauthorized charges is ultimately resolved against the customer; or

R. 14-2-1908 Notice of customer rights

A. Each telecommunications company shall provide to its customers an annual notice of the customer's rights regarding unauthorized changes.

Comment: Most consumers are inundated with mailings and there is a high likelihood that, if each carrier is required to individually mail annual notices to customers, many would be discarded as junk mail. Even if that were not the case, it is unlikely that the consumer would retain the notice for future reference.

Although AT&T does not believe that such notification is necessary, if the Commission moves forward with such a requirement, AT&T suggest that the most appropriate and effective method to provide customers with a notice of their rights is to have such notice included in the local exchange directory as proposed in R14-2-1908(E). Requiring both individual notices and notices published in the local telephone directories is unnecessary and costly.

Additionally, the FCC, as well as many state PUCs and carriers, provide information regarding customer rights on their websites.

C. The customer notice shall state:

2. An unauthorized telecommunications carrier changing a telephone service without the customer's permission is guilty of slamming and is required to return the service back to the customer's original provider;

Comment: The unauthorized carrier cannot initiate the action that would return a customer to its original carrier. The customer must initiate the order to do so.

7. A customer that has been slammed can contact the original telephone carrier to request the service be changed back.

*Comment: In fact, a customer **must** contact the original telephone carrier to request that his or her service be changed back. Again, an unauthorized carrier may not initiate the action to return the customer to the original carrier.*

R. 14-2-1909 Customer account freeze

Comment: The Commission's proposed rules only provide for written authorization to initiate a "freeze." The Commission should permit all methods of initiating a "freeze" that are permitted by the FCC: (1) written (including electronically signed); (2) electronic; and (3) oral confirmed by a third party verification.

R14-2-1910 Complaint Process

B. Staff of the Arizona Corporation Commission, upon receipt of a complaint at the Commission will:

3. Request the alleged unauthorized telecommunications company provide documentation of the subscriber's authorization and third party verification. Such information will be provided to Staff within 5 business days. If such information is not provided within 10 business days a valid presumption exists that an unauthorized change occurred and Staff will make a finding that such a change did occur.

*Comment: The proposed rule should be restated to have the alleged unauthorized telecommunications company provide documentation of the subscriber's authorization. The mention of authorization **and** third party verification in the proposed rule are confusing and conflicting. Third party verification is only one of three means of verification of the subscriber's authorization. If written or electronic verifications are used, there will be no TPV.*

AT&T recommends that the time frame for the alleged unauthorized carrier to provide the documentation be expanded from 5 business days to 20 business days. Five business days is simply not reasonable for retrieval of the documentation and response to the Staff. If the time frame were expanded to 20 business days, there would be no need for an additional time period with which the carrier must respond (e.g., the 10 business days in the proposed rules.) If the Commission maintains the 5-business day interval, AT&T requests that the proposed rule be modified to state that the alleged unauthorized carrier must respond to the Staff within that time frame, but not necessarily produce the documentation. Such modification will allow flexibility for the carrier to acknowledge receipt of the informal complaint and provide Staff with a status of the investigation if retrieval of the documentation is going to exceed the business day limit.

4. Advise the telecommunications company that it provide Staff with any other additional information requested by Staff within 10 business days, or provide Staff with an explanation for the delay and an estimate as to when the requested materials will be provided.

Comment: This proposed rule should be clarified to state that the 10-business day response time for additional information begins when the telecommunications company receives the request.

6. Inform the customer, executing telecommunications company, allegedly unauthorized telecommunications company and authorized telecommunications company of its finding upon conclusion of its review.

Comment: AT&T suggests that this proposed rule be modified to include a time frame in

which Staff will conclude its investigation. Also, information as to how Staff will notify the parties of its finding (i.e., electronically, registered mail, overnight mail, etc.) should be provided. However such notification is done, it should be done so in as timely a manner as possible in order to accommodate the 5-business day appeal schedule. The proposed rule should also be modified to state that if Staff does not find the alleged

unauthorized telecommunications company to be at fault that it may reinitiate charges to the customer.

III. ARTICLE 20. CONSUMER PROTECTION FOR UNAUTHORIZED CARRIER CHARGES

R14-2-2001 Definitions

A. “Cramming” means any charge on a customer’s telephone bill that was not authorized or verified in compliance with this section.

Comment: The Commission should add clarifying language to this proposed definition that specifically exempts “Per Use” features and other one-time charges such as directory and operator assistance. Also, “pass through” items such as taxes, USF, 911 surcharges, Carrier Connectivity charges, etc., should be exempted.

R14-2-2004 Requirements for Billing Authorized Charges:

A. A telecommunications company, or its billing agent shall meet all of the following requirements before submitting charges for any product or service billed on any customer’s telephone bill:

Comment: AT&T recommends that the ACC amend or modify this definition of “customer” to be consistent with the FCC’s definition of “subscriber.” The FCC’s definition of subscriber, includes not only the person on the account, but also people authorized by the person on the account. This is especially relevant in dealing with business customers. Business customers often act through “agents” or “authorized representatives.” This proposed rule should be revised to reflect that reality.

1. The telecommunications company offering the product or service shall inform the customer of the product or service being offered, including all associated charges, and explicitly inform the customer that the associated charges for the product or service will appear on the customer’s telephone bill;

Comment: This proposed rule should be modified to allow an exemption for “pass through” expenses such as taxes, UCC charges, etc.

2. The telecommunications company offering the product or service shall verify that the customer consents to receiving the product or service offered and to have the associated charges appear on the customer’s telephone bill. A record of the consent shall be maintained by the service provider offering the product or service for a period of at least 2 months subsequent to the consent;

Comment: Verification of the customer’s products, such as calling plans, is very confusing for the customer and will lead to further customer dissatisfaction. According

to the FCC's verification requirements, a TPV representative is supposed to be a neutral third party with no knowledge of the company's products and services and no incentive to "sell" the products. The federal requirements, by definition, are in contradiction with the design of this proposed cramming rule. To satisfy this proposed rule, the TPV representative would have to know the products in order to describe it down to the level of prices and appearance on the customer's bill.

Also, unlike the relatively quick transaction to sign up for long distance service, a local service customer may elect to have many optional features as part of his or her service. The process to verify all the individual features will add substantially to the customer's talk time with various representatives, leading to customer frustration.

This proposed rule would require carriers to develop costly and burdensome systems and scripts for state-specific requirements. In addition to fixed development costs, carriers would also incur significant incremental personnel, recording and storage costs.

3. The telecommunications company offering the product or service and any billing agent for the company shall provide the customer with a toll-free telephone number the customer may call and an address to which the customer may write to obtain information about to resolve any billing dispute.

*Comment: This proposed rules implies that two toll-free numbers may have to be supplied to the customer, that of the telecommunications company offering the product or service and the billing agent for the company. Providing the toll free number of either the telecommunications company **or** the billing agent is sufficient and less confusing for the customer.*

5. The telecommunications company and any billing agent for the telecommunications company shall execute a written agreement with the billing service provider for each specific product or service on the telecommunications company's bill. For as long as the billing for the product or service continues and for 24 months immediately following the permanent discontinuation of the billing, a record of this agreement shall be maintained by:

- a. The telecommunications company,**
- b. Any billing agent for the telecommunications company;**
- and,**
- c. The billing service provider.**

Comment: Although this rule is onerous with respect to all customers, it is particularly intrusive with respect to larger business customers, especially those with operations in more than one state. The rule appears to be premised on an assumption that changes to service are relatively rare and are handled either over the telephone or through the mail. This assumption is incorrect with respect to many business customers. Those customers make changes in service on a frequent basis. For example, it is not unusual for a large

business customer to make additions and changes to its telecommunications service on a daily basis. Moreover, depending on the service, the customer is able to make changes to its service without the direct intervention of the carrier through the use of interactive ordering and maintenance tools.

Adoption of this rule would have a deleterious impact on the ability of a carrier to serve these customers. Any change in service would have to be accompanied by an elaborate and time-consuming warning and confirmation process that would hamper efforts to provision these customers while providing little, if any, value to them. In addition, because the interactive systems are not currently capable of providing and tracking the required notice and confirmation adoption required by these rules, a carrier may be unable to use the interactive systems for any Arizona orders. Elimination of such systems would impose a hardship on customers that are used to having the flexibility to monitor and adjust their services to reflect their needs on a "real time" basis.

Additionally, this proposed rule inappropriately concerns itself with the relationship between the telecommunications company and its billing agent. In an environment where a telecommunications company's billing agent, primarily the local exchange company ("LEC"), is also its main competitor, it is unreasonable to disclose such level of detail regarding what is being sold to a mutual customer base. AT&T strongly urges the Commission to eliminate this proposed rule. If it does not do so, alternatively, business customers should be exempted from this rule.

R14-2-2005 Authorization Requirements

Comment: Proposed rule R14-2-2005 appears to be applicable to all charges appearing on the telephone bill. As such, it appears that the rule applies to interstate "pay per call" services. The requirements for notifying customers of the charges for these "pay per call" services are already pervasively regulated at the federal level by both the FCC and the FTC. To the extent that these rules conflict with the federal regulation of interstate traffic, they may be unenforceable.

Other per-use type of services, such as operator, directory, and some custom calling features should also be exempted from these proposed rules.

Any communication with a customer for consent authorizing the customer's order for a product or service shall include in a clear and conspicuous manner the following:

3. Question and answer to ensure that the customer is qualified to order the product or service and authorized the billing;

Comment: The proposed rule is silent as to what proof is required to ensure that a customer is "qualified." AT&T recommends that the question be asked, "Do you certify that you are authorized to order this service?" An affirmative response to this question should be sufficient to constitute that the customer is "qualified."

4. Question and answer to ensure that the customer is at least 18 years of age;

Comment: Again, the Commission should adopt the FCC's definition of "subscriber." Adoption of this definition would render this question unnecessary and duplicative.

- 5. Explanation of each product or service offered;**
- 6. Explanation of all applicable charges;**
- 7. Explicit customer acknowledgement that the charges will be assessed on the customer's bill;**
- 8. Explanation of how a product or service can be cancelled;**
- 9. Description of how the charge will appear on the customer's bill;**
- and**

Comment: As discussed above in the comment regarding proposed rule R14-2-2004(A)(2), the requirements of sections 5-9 of this proposed rule, present burdensome and confusing verification requirements. Verification of the customer's products, such as calling plans, is very confusing for the customer and will lead to further customer dissatisfaction. According to the FCC's verification requirements, a TPV representative is supposed to be a neutral third party with no knowledge of the company's products and services and no incentive to "sell" the products. The federal requirements, by definition, are in contradiction with the design of this proposed cramming rule. To satisfy this proposed rule, the TPV representative would have to know the products in order to describe it down to the level of prices and appearance on the customer's bill.

Also, unlike the relatively quick transaction to sign up for long distance service, a local service customer may elect to have many optional features as part of his or her service. The process to verify all the individual features will add substantially to the customer's talk time with various representatives, leading to customer frustration.

This proposed rule would require carriers to develop costly and burdensome systems and scripts for state-specific requirements. In addition to fixed development costs, carriers would also incur significant incremental personnel, recording and storage costs.

R14-2-2006 Customer Consent

Comment: Proposed rule R14-2-2006 appears to be applicable to all charges appearing on the telephone bill. As such, it appears that the rule applies to interstate "pay per call" services. The requirements for notifying customers of the charges for these "pay per call" services are already pervasively regulated at the federal level by both the FCC and the FTC. To the extent that these rules conflict with the federal regulation of interstate traffic, they may be unenforceable.

A. Customer authorization shall be obtained by one or more of the following methods:

- 1. A customer's written consent of authorization shall be a separate document containing the information required by R14-2-2004 and**

shall be for the sole purpose of authorizing the charges for a product or service on the customer's bill. The written documentation:

(b) Shall not be combined with inducements of any kind on the same document;

Comment: The Commission should modify this proposed rule to permit the use of checks that comply with the federal requirements. Specifically, "check LOAs" meeting the following federal requirements, should be permitted.

"The letter of agency check shall not contain any promotional language or material. The letter of agency check shall contain in easily readable, bold-face type on the front of the check, a notice that the subscriber is authorizing a preferred carrier change by signing the check. The letter of agency language shall be placed near the signature line on the back of the check."

R-14-2-2007 Unauthorized Charges

Comment: Proposed Rule R-14-2-2007 appears to apply to both intrastate and interstate charges. This proposed rule should be revised to reflect the proper scope of the Commission's jurisdiction.

A. If a customer's telephone bill is charged for any product or service without proper customer consent as described in R14-2-2006, the billing telecommunications company, on its knowledge or upon notification of any unauthorized charge, shall promptly, but not later than 45 days from the date of obtaining knowledge or notification of an unauthorized charge, shall:

3. Refund or credit to the customer all money that has been paid by the customer for any unauthorized charge, and if any unauthorized charge that has been paid is not refunded or credited within three billing cycles, shall pay interest on the amount of any unauthorized charge at an annual rate established by Commission pursuant to A.A.C. R 14-2-503(B) until the unauthorized charge is refunded or credited:

Comment: In some cases, such as a carrier change or specific calling plans, the customer must initiate the change. An interexchange carrier may not initiate a change of carrier on a customer's account. This proposed rule does not cover situations such as this and may, in fact, give the customer an incentive to engage in fraudulent behavior if the customer knows that he or she will not be responsible for any charges in such instances.

Also, AT&T recommends that the time to remove unauthorized charges from a customer's bill be extended from 45 to 60-70 days. The extension of this time will allow two bill cycles to occur thus covering the cases where a customer informs the carrier of an unauthorized charge shortly after the bill cycle has passed.

B. Once an unauthorized charge is removed from the customer's telephone bill, it shall not be re-billed on the telephone bill for past or future periods.

Comment: If the customer and the service provider agree that the customer was accurately billed, or if the Commission Staff determines that a charge was authorized, the telecommunications company should be permitted to use the telephone bill as a vehicle to re-bill the customer.

C. A billing telecommunications company shall not:

- 1. Suspend, disconnect, or terminate telecommunications service to any customer who disputes any billing charge pursuant to this section or for nonpayment of an unauthorized charge;**

Comment: In the case of a preferred carrier selection, the customer must initiate a change of carrier. As written, the proposed rule would require carriers to keep providing service to a customer even if that customer denies authorizing such charges and does not take steps to change his or her service. Such a rule provides strong encouragement for customers to engage in fraudulent behavior.

- 2. File an unfavorable credit report against a customer who has not paid charges that the customer has alleged were unauthorized. If the dispute regarding the unauthorized charge is ultimately resolved, the customer shall remain obligated to pay any charges that are not in dispute.**

Comment: The customer is obligated to pay any charges not in dispute while the dispute is pending. Only disputed charges are held in abeyance pending resolution of the informal complaint.

R14-2-2008 Notice of Customer Rights

2. The customer notice shall include the following:

- c. A statement that the telecommunications company is required to return the service to its original provisions if a customer has been crammed; and**

Comment: This proposed rule should be clarified to state that upon determination by the Commission that unauthorized charges were assessed that the telecommunications company would be required to return the service to its original provisions. As written, the rule is unclear as to who determines if the customer has been "crammed."

3. Distribution, language and timing of notice.

- a. A telecommunications company shall send the notice described in this rule to new customers at the time service is initiated, an upon customer request.**

Comment: Most consumers are inundated with mailings and there is a high likelihood that if each carrier is required to individually mail notices to customers that many would be discarded as junk mail. Even if that were not the case, it is unlikely that the consumer would retain the notice for future reference.

AT&T suggest that the most appropriate and effective method to provide customers with a notice of their rights is to have such notice included in the local exchange directory as proposed in R14-2-2008(3)(b). Additionally, the FCC, as well as many state PUCs and carriers, provide information regarding customer rights on their websites. Requiring both individual notices and notices published in the local telephone directories is unnecessary and costly.

b. Each telecommunications company shall print the notice described in this rule in the white pages of its telephone directories published 30 days after the effective date of this rule.

Comment: AT&T agrees that the local telephone directory is an effective and logical source for the publication of a notice informing customers of their rights. The Commission should deem that publication of such a notice in a directory is sufficient.

R14-2-2009 Complaint Process

Proposed Rule R-14-2-2009 appears to apply to complaints regarding both intrastate and interstate charges. This proposed rule should be revised to reflect the proper scope of the Commission's jurisdiction. Informal complaints regarding interstate service must be directed to the FCC.

B. Staff of the Arizona Corporation Commission, upon receipt of a complaint at the Commission will:

3. Request the telecommunications company provide documentation of the customer's service authorization. Such information will be provided to Staff within 10 business days. If such information is not provided within 10 business days a valid presumption exists that an unauthorized charge occurred and staff will make a finding that such a charge did occur.

Comment: AT&T recommends that the time frame for the alleged unauthorized carrier to provide the documentation be expanded from 10 business days to 20 business days. Ten business days is simply not reasonable for retrieval of the documentation and response to the Staff. If the Commission retains the 10-business day interval, AT&T requests that the proposed rule be modified to state that the telecommunications company must respond to the Staff within that time, but not necessarily produce the documentation. Such modification will allow flexibility for the carrier to acknowledge receipt of the informal complaint and provide Staff with a status of the investigation if retrieval of the documentation is going to exceed the business day limit.

C. The telecommunications company shall provide staff with any other additional information staff requests within 10 business days, or provide staff with an explanation for the delay and an estimate for when the requested materials will be provided.

Comment: This proposed rule should be clarified to state that the 10-business day response time for additional information begins when the telecommunications company receives the request.

E. Upon conclusion of its review, Staff will inform the customer and the telecommunications company of its findings.

Comment: AT&T suggests that this proposed rule be modified to include a time frame in which Staff will conclude its investigation. Also, information as to how Staff will notify the parties of its finding (i.e., electronically, registered mail, overnight mail, etc.) should be provided. Regardless of how notification is made, it should be done in as timely a manner as possible in order to accommodate the 5-business day appeal schedule. The proposed rule should also be modified to state that if Staff finds that the charges were authorized, the telecommunications company may reinitiate charges to the customer.

F. In the event either party is dissatisfied with the Staff resolution, either party may appeal the decision within 5 business days. Such an appeal would be heard by an appointed mediator.

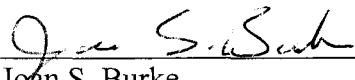
Comment: The Commission should clarify that the 5-business day interval to appeal a decision, is based upon the date that the parties receive Staff's resolution.

IV. CONCLUSION

AT&T appreciates the opportunity to provide comments on the Commission's proposed rules and looks forward to working with the Commission's staff on this matter.

Respectfully submitted this 12th day of June 2001.

AT&T COMMUNICATIONS OF THE
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CERTIFICATE OF SERVICE

I hereby certify that the original and 10 copies of AT&T's Comments On the Proposed Slamming and Cramming Rules, were hand delivered on this 12th day of June, 2001, to:

Arizona Corporation Commission
Docket Control - Utilities Division
1200 West Washington Street
Phoenix, AZ 85007

and a true and correct copy was sent via United States Mail, postage prepaid, on this 12th day of June, 2001, to:

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